

PRACTITIONER/PATIENT RELATIONSHIP AND THE PRESCRIBING OF DRUGS FOR FAMILY OR SELF

In October 2005, the Board of Medicine promulgated regulations regarding a practitioner prescribing for self or family that replaced a previous guidance document on this subject. The following section 18 VAC 85-20-25 is the regulation that applies to practitioners of medicine, osteopathic medicine, and podiatry. The same language was also included in the regulations for physician assistants. While this regulation has not yet been included in regulations for nurse practitioners, it is reasonable to assume that because a nurse practitioner works under the authority of a supervising medical practitioner, that, at a minimum, the same constraints would apply. This issue has not been addressed in regulations of the Boards of Dentistry, however, in order to be a valid prescription, the requirements of §54.1-3303 would need to be met. The Board of Optometry has approved a guidance document, portions of which are included in this document.

18VAC85-20-25. Treating and prescribing for self or family

A. Treating or prescribing shall be based on a bona fide practitioner-patient relationship, and prescribing shall meet the criteria set forth in § 54.1-3303 of the Code of Virginia.

B. A practitioner shall not prescribe a controlled substance to himself or a family member, other than Schedule VI as defined in § 54.1-3455 of the Code of Virginia, unless the prescribing occurs in an emergency situation or in isolated settings where there is no other qualified practitioner available to the patient, or it is for a single episode of an acute illness through one prescribed course of medication.

C. When treating or prescribing for self or family, the practitioner shall maintain a patient record documenting compliance with statutory criteria for a bona fide practitioner-patient relationship.

Section of 54.1-3303 (A) from the Code of Virginia

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medically or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

from the Board of Optometry Guidance Document 105-27, adopted January 2005, for optometrists only:

Guidance:

Documentation

The presence of a record is an essential part of a valid practitioner/patient relationship. The record should contain the following:

- 1. An appropriate history and physical examination (if pain is present and controlled substances prescribed, the assessment of pain, substance abuse history, and co-existing diseases or conditions should be recorded).*
- 2. Diagnostic tests when indicated.*
- 3. A working diagnosis.*
- 4. Treatment plan.*
- 5. Documentation by date of all prescriptions written to include name of medication, strength, dosage, quantity and number of refills. The prescription should be in the format required by law.*

Self-Treatment and Prescribing

- 1. A practitioner cannot have a bona fide practitioner/patient relationship with himself or herself.*
- 2. Only in an emergency should a practitioner prescribe for himself or herself schedule VI drugs.*
- 3. Prescribing of schedule II, III, IV, or V drugs to himself or herself is prohibited.*

Immediate Family

- 1. Appropriate consultation should be obtained for the management of major or extended periods of illness.*
- 2. No schedule II, III or IV controlled substances should be dispensed or prescribed except in emergency situations.*
- 3. Records should be maintained of all written prescriptions or administration of any drugs.*